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THE

WHEELING BRIDGE SUIT:

A NOTICE OF ITS HISTORY AND OBJECTS,

ADDRESSED

TO THE LEGISLATURE OF PENNSYLVANIA.

PHILADELPHIA:

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1852.

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THE

WHEELING BRIDGE SUIT.

CERTAIN persons in Pittsburg, during the summer of 1849, instituted proceedings against the Wheeling Bridge Company, in the Supreme Court of the United States, and in the name of the sovereign Commonwealth of Pennsylvania. The Legislature was not consulted by these parties before the suit was commenced. A public meeting, under the guidance of the legal gentlemen who have since conducted, and who still enjoy the profits, of the enterprise, usurped the legislative authority. The prosecution was begun by a single law firm,* without investigation, without a visible client, and probably without fees; but, doubtless, in the expectation that the costs might ultimately be thrown upon the Commonwealth. It was a speculation, based upon the hope that the Legislature might be prevailed on to assume the charges and responsibilities of the operation, and thus render it a profitable adventure. In this calculation they were not

* That of Shaler & Stanton, of Pittsburg. [See Note.]

disappointed. Ex parte representations were made to the Legislature. The Bridge Company, being a foreign corporation, were not heard in their defence. They had no voice here. They were condemned without hearing or trial, and the honoured name and the public funds of this great Commonwealth, were put at the disposal of these attorneys;—who were thus furnished with a letter of marque to persecute an enterprising body of fellow citizens, whose only faults were, that they did not reside within the limits of our favoured State, and had constructed a great work, over which a portion of the trade and travel of the fertile west might reach Philadelphia without passing through Pittsburg.

But things have since changed. New interests have been developed by the march of improvement, and the cause of the Wheeling Bridge Company is now become the cause of the Hempfield Rail Road Company—that of the Pennsylvania Rail Road Company—and that of the City of Philadelphia: and is soon to be recognised as that of the State of Pennsylvania.

To understand this matter fairly, we will suppose that the suit now pending should be decided against the bridge; and that, by dint of the testimony which has been collected by the indefatigable counsel, along the wharves of Pittsburg,* that great structure should be demolished by a decree of the Court. The practical question then arises—What will Pennsylvania gain by such success? This is the question which it is proposed now to discuss. To decide it, let the intelligent reader

* No less than sixty depositions have been drawn from this fountain of truth.

turn to the annexed map, and look for a moment at the geographical position of Pennsylvania.

Most unfortunately, this great State, so full of natural resources, nowhere approaches the Ohio river on its western border. A narrow wedge-shaped strip of territory belonging to Virginia, nearly 70 miles long, and from 7 to 20 miles wide, lies in between Pennsylvania and the Ohio river, and completely excludes us from all direct access to the country west of that river. Nature has placed the Key Stone in an enviable position on the Atlantic sea board, for commanding and shipping the trade of the west and south-west attracted to her commercial emporium. But she cannot reach that trade, by any direct route, without first passing through this narrow belt of Virginia, and constructing a bridge across the Ohio, of which one abutment, at least, shall rest on the soil of Virginia. But we cannot construct and maintain a rail road through Virginia without the sanction of Virginia; nor can we plant an abutment on her soil without the permission of her Legislature. Consequently, we are wholly excluded from the rail road commerce of the south-west, unless the lines leading through her territory, by which that traffic is to be brought to our borders, are sanctioned by our sister State.

It has been suggested that we can easily get possession of this trade by passing through Pittsburg, without asking the consent of Virginia. But that is a great error. This narrow belt of Virginia runs up along the Ohio at least 16 miles north of Pittsburg. In all this distance—from the southern boundary of Pennsylvania to a point 16 miles north of Pittsburg—Virginia completely cuts

off our access to the Ohio river. We can only approach that river with her consent. We cannot cross the river, when our work has reached the bank, without her consent. A bridge across the Ohio—in Virginia—is therefore indispensable to our participation in the trade and travel of the west. We are, in fact, completely landlocked by Virginia in the south-west, and depend upon her legislation for one of the greatest elements of our commercial prosperity.

Fortunately for that prosperity, we have a generous neighbour; and it becomes us not to place our delicate relations and deep interests with such a neighbour, in the control of unscrupulous jobbers and speculators.

Pennsylvania is not *now* excluded from participation in the trade of the west. Virginia has most happily conceded to us a clear passage through her territory, on the line from Philadelphia to Wheeling, by confirming the charter of the HEMPFIELD RAIL ROAD COMPANY: and she has given us the right to cross the Ohio at Wheeling, and there connect our rail road system with the rail roads of the west, by granting a charter for the WHEELING BRIDGE. Our title to this passage is now clear.

This—the Hempfield Rail Road and the Wheeling bridge—is the only route which Virginia has authorized to be opened through her territory and across the Ohio, for any Pennsylvania improvement; and, most fortunately for us, it is the precise route which Pennsylvania, if the choice had been conceded to her, would have selected.

But the proceedings against the Wheeling bridge are now pressed for the purpose of destroying this, the Great Central line of our State to the west—our direct line

now to St. Louis, and to-morrow to the Pacific—and thus forcing the southern and western roads to pass up the Ohio and around the Great Bend, which stretches more than 16 miles north of Pittsburg.

If this suit, thus instituted, should prove to be successful, our western line will be intercepted by the Ohio; and there can be little doubt that Virginia will then immediately authorize the bridge now sought for across the Ohio, at Parkersburg. In this event the trade brought by the south-western roads, which may now pass over the Wheeling bridge, and reach Philadelphia through the Hempfield and Pennsylvania Rail Roads, thus blindly and recklessly driven from our borders, will pass into Maryland, and serve to enrich the commerce of Baltimore.

The Wheeling bridge is the only avenue through which that trade can be reached by Pennsylvania; and Pittsburg, in the sovereign name of the Commonwealth. is endeavouring to destroy that avenue. Will the Legislature of Pennsylvania permit it? Will the Legislature allow the name of the State, and the funds of the State, thus to be used by unrestricted attorneys to cripple the resources of the State?

OF THE HEIGHT OF THE WHEELING BRIDGE.

The Wheeling bridge was alleged, by the persons who led the State into this suit, to be too low for the passage of the largest steamboats on the Ohio river, with their pipes standing, when the stream is swollen by floods. It is not pretended, however, that there are more than six of these boats. of which the chimneys are too high to

pass under the bridge in any stage of the river. But, on the other hand, the three largest of these six boats were finished after the bridge was commenced; and it is charged by the Bridge Company—and is, indeed, notorious on the river—that the pipes of these boats, generally known as the "Bridge Boats," were expressly run up 20 feet or more higher than the ordinary pipes of similar vessels, for the purpose of aiding this suit. But this charge—involving the *intention* of parties—is not, of course, susceptible of legal proof. Yet it has been shown by competent testimony, and is not denied, that the chimneys used on these anomalous boats are 21 feet higher than those of the largest steamers engaged in the Ohio trade, when the Wheeling Bridge was commenced* —and fully 30 feet higher than those used on the finest boats of the Hudson and Delaware.

To the Legislature of Pennsylvania, whose prejudice has been excited against the Wheeling bridge, it will perhaps be matter of astonishment to find that this structure, so much defamed, is actually suspended 92 feet above low water, and 62 feet above the highest ordinary spring floods. To those who have been honestly hostile to the bridge, it will seem strange indeed that a structure, which will allow boats 90 feet high to pass under the flooring at low water, and chimneys 60 feet high at high water, has been so ruthlessly assailed at Pittsburg, and made matter of legislative hostility. And, indeed, this never could have

* The highest chimneys in use on the Ohio, when the bridge was commenced, were those of the Clipper No. 2, which were 64 feet high.

The highest built while the bridge was building, or after the State had been led into this prosecution, were 85 feet.

happened, but for the value of the law job that has been obtained by those who aided in getting up the suit. The idea that a steamboat cannot run successfully with pipes less than 85 feet high, when no chimneys on the Atlantic Ocean, or on any of the waters flowing into it, have ever been raised 60 feet high—when the pipes of locomotives, made to pass through tunnels and under farm bridges, are found sufficient when only 8 or 10 feet high—would seem to be too absurdly false to need exposure. Yet the State of Pennsylvania is made, by her counsel, to endorse this untruth.

The Wheeling Bridge is 92 feet high over the channel of the Ohio. It is built without a pier, and springs over the whole width of the river and more than one hundred feet of the dry land, on either side, with one single span. The span of this arch—the greatest ever attempted in any country—is 1010 feet.

The ordinary spring floods of the Ohio are from 28 to 30 feet high. On rare occasions they rise a few feet higher, but only continue at these extreme limits for a day or two. Three times only within the memory of man they have exceeded 35 feet. In the highest floods, therefore, of all ordinary seasons, a boat with chimneys standing, 62 feet high, can pass under the flooring. In other words, boats having chimneys 10 or 15 feet higher than are commonly used on the largest class of boats on the Delaware or Hudson, can pass under the flooring of this bridge at all times—in the highest ordinary spring floods—without one moment's delay, or the slightest impediment.

That such a bridge can offer no obstruction to the

navigation of the river is most obvious. I shall not burthen this paper with arguments to prove the fact: but I will show that it was so considered by the people of Pittsburg and by our own Legislature, when the Wheeling bridge was chartered; and that it continued to be so regarded, until the hope of a profitable job, or some other motive, induced the acting attorneys to aid in "awakening" this disgraceful prosecution.

THE TRIPARTITE BRIDGE ACROSS THE OHIO BELOW PITTSBURG.

A few months before the Legislature of Virginia authorized the construction of the Wheeling bridge, the Legislature of Pennsylvania, on the application of the people of Pittsburg, and at the instance of their representatives, chartered a company to construct a bridge across the Ohio immediately below the city of Pittsburg. This bridge was to be put entirely below the city—below the landings--below all the boats, and was to be supported by several piers.

This charter, I say, was asked for by Pittsburg; the bill was introduced into the Legislature by the Alleghany county members; and it was passed by their influence. Now, this charter prescribed the height which, at Pittsburg, was deemed sufficient to preserve the free navigation of the Ohio. It not only expressed the opinions of the people of Pittsburg, upon the subject of the freedom of the navigation—of which they ought always to be the jealous guardians—but it was a declaration also of the opinion of the Legislature of Pennsylvania on the same

question. It was, in fact, a publication to the world, of the height which the State of Pennsylvania would prescribe for those bridges which the future wants of the country might render necessary on the Ohio river.

By referring to this act—approved April 8, 1846—it will be seen that this bridge was required to be but 79 feet above low water over the eastern channel, and but 59 feet above low water over the western channel of the river.

The height of the Wheeling bridge is 92 feet above low water; and in pursuance of that system of deception which has been so often practised upon our Legislature, in order to excuse this suit, this bridge of 92 feet was represented to be too low, by those very men who had previously represented 79 feet to be high enough.

They knew then, as they know now, that these lofty chimneys are unnecessary, as they are extremely inconvenient. Still they will no doubt continue to be used, while they are needed, to make war upon the bridge which has been erected by the enterprise of a generous neighbour.

The span of the largest arch in the Pittsburg bridge was required to be 750 feet; while the span of the Wheeling bridge is 1010 feet, or 260 feet greater.

The Pittsburg bridge was permitted to have piers. The Wheeling bridge, on the contrary, clears the whole channel at a single leap.

Shortly after inducing their representatives to get this charter from the Legislature of Pennsylvania, for a bridge across the Ohio, intended for their own benefit, these very people brought suit against the Wheeling

bridge—built 13 feet higher than they had previously declared to the Legislature to be high enough for the protection of the navigation—and then, without special authority, their attorney introduced the name of this sovereign Commonwealth as a cloak to the purposes of the prosecution.

It is not my wish to cast unnecessary or unjust censure upon the attorneys who incited this suit, and are living upon it. That is their vocation. I care nothing about them. But it is for the Legislature to judge whether it be proper that the State be used as their tool—the mere cat's paw with which they drag their chesnuts from the fire.

The following list will show the height of the several bridges at Pittsburg and Wheeling, measured *from the bed of the river* to the underside of the flooring.

			Heights.
Pittsburg bridges.	Bridge over the Monongahela,	7 piers,	41 feet.
	Hand street bridge (Alleghany),	4 ,,	42½ ,,
	St. Clair street bridge, do.	5 ,,	43 ,, *
	State aqueduct, do.	6 ,,	43½ ,,
	Upper bridge, do.	4 ,,	45 ,,
	Tripartite bridge over the Ohio,	2 ,,	80 ,,
Wheeling bridge,		0 ,,	94 ,,

It is a curious fact that the City of Pittsburg—almost an island—which would be virtually excluded from the world without its bridges; which only lives by aid of the facilities they afford; which would moulder to decay if

* Some of these bridges at Pittsburg are so low, that the highest floods reach the lower timbers, and even rafts get through with difficulty.

deprived of their convenience; which yet seeks to build one over the Ohio below the city; and which can have no direct rail road connexion with the west, without the consent of the Legislature of Virginia, and without a bridge over the Ohio which must be sanctioned by Virginia—should yet allow herself to be led by chronic envy and cultivated malice, into this insane assault upon a neighbour's bridge. It is one of those thousand demonstrations of the influence of petty jealousy, which the experience of most men enables them to appreciate in the course of a life of public activity.

THE HEMPFIELD RAIL ROAD.

The assault upon the Wheeling bridge has acquired new interest with a portion of the people of Pittsburg, since the construction of the Hempfield Rail Road has been secured. It is worth while to examine into the cause of this increased interest. To comprehend it fully, we must follow up the system of western and southwestern rail roads leading from the interior cities to Philadelphia.

I. THE GREAT CENTRAL LINE of western roads, leading from St. Louis through Terre Haute, Indianapolis, Columbus, and Zanesville, is intended to cross the Ohio at Wheeling, and pour its accumulated trade over the bridge which Pittsburg wishes to destroy, upon the HEMPFIELD RAIL ROAD, and by means of that road, through the Pennsylvania Rail Road, into Philadelphia.

The whole of this line, from Terre Haute to Zanesville, is finished or in progress of construction; that por-

tion which lies between Zanesville and Wheeling is to be offered for contract on the 15th of the present month (January, 1852), and a portion of the Hempfield road is to be let at, or nearly at the same time.

This great line passes south of Pittsburg, it is true, but it passes through the heart of Pennsylvania; and we are yet to learn what Pittsburg has done for the State to entitle her to the exclusive benefit of all the trade that comes into the State. This trade is necessary to the full measure of the commercial prosperity and fame of this Commonwealth. If we do not get it through Wheeling, it will pass off by the roads leading from Indianapolis, or from Columbus, to Cleveland, and go to augment the commercial supremacy, and swell the aggregate traffic, of our great northern rivals.

If Pittsburg is disposed to disgrace herself and her people, by relying for her share of the business of the west, upon that meanest of all measures, malignant lawsuits, instead of her own energy and enterprise, she should be required to do it at her own cost, and not at the expense of the State. There is no justice—there can be no propriety—in compelling the people of Washing and Westmoreland, and the central counties thence to Philadelphia, to share the disgrace and pay the cost of a discreditable litigation, which is intended to deprive them of their natural highway east and west. Let Pittsburg fight out her own law battles.*

* This habit of seeking to avoid the labour which other people encounter to obtain success, by injunction and chancery suits, is become quite too common at Pittsburg. The attempt to prevent the merchants of Philadelphia from subscribing to the stock of the Hempfield Rail Road; the injunction against the Washing-

II. The Great South-western Line, extending through Nashville, Lexington, Portsmouth, Marietta and Wheeling. This road, with its great tributaries from Louisville and Cincinnati, is progressing in almost all its parts, and promises, at an early day, to open a continuous rail road line from Philadelphia to Nashville in Tennessee—the shortest route that seems to be attainable between those distant places. The trade which is to be brought through this great artery to Philadelphia, must either cross the Ohio at Wheeling—and on the only bridge which Pennsylvania is permitted to use there—or it must cross the river at Parkersburg, and be absorbed by Baltimore.

Pittsburg may prevent Philadelphia from enjoying this traffic—the trade and travel of Kentucky, Tennessee and southern Ohio—if, by her representations to the Court and to the Legislature, she can succeed in overthrowing the Wheeling bridge. She may, if successful in this, the latest of her periodic attacks on Philadelphia interests, succeed in driving the trade and travel of the south-west to Baltimore; but she cannot secure it to herself. Yet, her politicians and business men have always been enrolled among, and do still belong, to that class of envious minds, that feel oppressed by the prosperity of their neighbours,

ton county subscription; the harassing suits against private citizens of Wheeling who pass through Pittsburg on their way to Philadelphia, and the suit to destroy the Wheeling bridge, all have their origin in this same unworthy principle.

It is contended by the apologists of Pittsburg, that there is a class of persons there who fully appreciate the disgrace which is brought upon the city by these proceedings, and who feel the shame of it most acutely.

"that turn pale
And sicken, even if a friend prevail."

They would rather see the south-western trade lost to Pennsylvania, than won by the combined enterprise of Wheeling and Philadelphia

But is it the part, is it the province of the STATE, to encourage this ignoble sentiment?

III. THE DIRECT LINE FROM PHILADELPHIA TO CINCINNATI, passing through Wheeling, Zanesville and Wilmington, and continued on from Cincinnati through Vincennes to St. Louis.

The trade and travel of this line, which from the excellence and directness of the route must be immense, can only reach Philadelphia by crossing the Ohio at Wheeling, and passing over the Hempfield and Pennsylvania roads. It cannot get to Pittsburg. The menace, so boldly made by the Pittsburg press, that they will cross the Ohio at Steubenville, in defiance of Virginia, and pass over the territory of that State "with or without a charter," is clearly one of those threats that can never be carried out. Pittsburg has, most unfortunately for our State, forfeited her claim to the respect, or consideration, or even the courtesy, of the Virginia legislature, by questioning the sovereignty of that State without necessity, and persecuting her citizens by malicious suits, when they pass through her corporate limits. She cannot hope to obtain the charter for the bridge which she now requires at Steubenville, because a suit is now pending at her instance, against the bridge at Wheeling. She will not be permitted to tear down the present "nuisance," and substitute another for her own benefit.

No one in Pennsylvania will regret to see this selfish city brought into this sad dilemma—compelled to plead for a bridge charter to the very State whose right to grant such a charter she has so long and so ruthlessly contested.

It would be unfortunate, indeed, if our claim to the trade depended on the chance of getting the charter which this city now asks from the Legislature of Virginia. But Pennsylvania is not dependent upon her success for the possession of the trade. We have still the charter for the Wheeling bridge which she aims to destroy. We have that of the Hempfield Rail Road, through Virginia, connecting our Pennsylvania road with that bridge, and with the great railways of the west. Let him who doubts the ability of Pennsylvania to hold the trade, so long as she can maintain the Wheeling bridge, turn to the enclosed map, and trace the route of the Pennsylvania Rail Road to Greensburg, and follow up the line through Wheeling, Zanesville, Columbus, Indianapolis and Terre Haute, to St. Louis; then through Wheeling, Zanesville, Cincinnati and Vincennes, to St. Louis, and onward to the western boundary of Missouri; and then again through Wheeling, Marietta, Portsmouth, Lexington and Nashville, and on to Memphis and New Orleans. Let the rational man, who doubts our ability to enjoy the trade as long as Pennsylvania is permitted to cross the Ohio on the Wheeling bridge, and as long as the Hempfield Rail Road Company can hold the right of way through Virginia, look at the position of Wheeling on this map. Let him trace the lines leading from that city to the east and west, and say, as a candid man.

whether the Wheeling bridge be not Pennsylvania's key to the trade of the west and south-west. Let him say, as a man of honour and justice, whether they who built that bridge, and thus gave to Philadelphia an open pathway to the richest trade that a bountiful Providence has ever bestowed upon man, do not deserve the thanks of the State, rather than to be made objects of unmitigated and lasting persecution.

NOTE.

Origin of the Bridge Suit.

The immediate legal instigators of this suit were, as stated in the text, Messrs. Shaler & Stanton. The following extracts from the Pittsburg "Commercial Journal," of June 30, 1849, will show the means which they adopted, and lead to pretty sure conjectures of their motives.

On the evening of June 28th, a meeting was called in the Board of Trade Rooms; when,

"On motion of the Hon. Charles Shaler [who called the meeting to order and opened the business], Joseph Pennock, Esq. was called to the chair."

"The president having read the call of the meeting, Judge Shaler rose "and said, that he had been called on professionally, a short time since, "relative to the construction of a bridge across the Ohio river at Wheeling, "as had, also, several other members of the bar.—They had, however, "unanimously declined giving any opinion at the time, as it was a subject "requiring much research [fees?] and a knowledge that none of them "possessed," &c. "They had, therefore, united in the suggestion that "such a meeting should be called, to solicit the opinions of our citizens, "collect information, and *awaken an interest in relation to the matter*, "not only among ourselves, but elsewhere."

There was, in fact, no interest in relation to the matter, "either among themselves, or elsewhere," until it was "*awakened*" by this nest of lawyers. "He (Judge Shaler) had prepared a few resolutions, which he "designed to offer *for the purpose of opening the way* to such as are "here and abroad, as might be desirable. So far as regarded himself, he "said he admitted that his information on the subject was exceedingly

"limited." "So far as the facts had been stated to him he was informed "that the bridge was but 80 feet above the low water line."

"The law itself had not settled this question—it was a case of first "impression, as lawyers call it," &c.

"He would, in order to bring the whole subject before the meeting, "read the resolutions he had drawn up."

Now, here we find that one of this firm of Shaler & Stanton suggested the first public meeting, for the purpose, as he expressed it, of "awakening an interest in relation to the matter"—"of opening the way;"—that he did then open the way by bringing the meeting so called, at his own instance, to order; by nominating the chairman, proposing and offering the resolutions, and directing the action of the meeting. We know, also, that after having thus opened the way, his firm obtained the employment of travelling over the country—to the eastern cities and southern cities, and to the seat of Government—to collect testimony, and to carry on this suit, at the cost of the Commonwealth of Pennsylvania. We know, also, that the brother-in-law of this same man got the appointment of Engineer, to the Commissioner who was appointed by the Court to take further testimony. We do not know, indeed, how he got that appointment, nor is it at all necessary now to inquire. Enough has been exposed to show who started this suit, who have since managed it, who stand surety for the costs, and who reap the profits.